

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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M.C., an Infant by her Mother and Natural Guardian,  
INGRID JOHANNA CARDONA,

Plaintiff,

-against-

TARGET CORPORATION,

Defendant(s).

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Defendant, TARGET CORPORATION, by its attorneys, FISHMAN McINTYRE  
BERKELEY LEVINE SAMANSKY P.C., respectfully petitions the United States District Court,  
Eastern District of New York, upon information and belief, as follows:

1. This case was originally commenced on or about November 20, 2020 in the Supreme Court of the State of New York, County of Kings. The suit is identified in the Supreme Court as “M.C., an Infant by her Mother and Natural Guardian, Ingrid Johanna Cardona v. Target Corporation”, Index No. 523224/2020. A true copy of plaintiff’s Summons and Verified Complaint is cumulatively annexed hereto as Exhibit A.

2. Defendant, Target Corporation (“Target”) first received notice of the suit when service was effectuated upon the New York Secretary of State on or about November 24, 2020. (See Exhibit B hereto). The grounds for removal are based on the original jurisdiction of this Court under 28 U.S.C. § 1332, which allows this Court to hear matters based on diversity of citizenship of the parties.

3. Target filed the answer to plaintiff’s complaint on December 22, 2020. A true copy is annexed hereto as Exhibit C.

4. In plaintiff’s Complaint, plaintiff does not specify a monetary amount of damages claimed. Rather, plaintiff claims damages of a non-monetary amount as a result of alleged:

“[S]erious injuries and to have suffered pain and suffering; that these injuries and their effects will be permanent; and as a result of said injuries, plaintiff has been caused to incur, and will continue to incur, expenses for medical care and attention; and, as a further result, plaintiff was, and will continue to be, rendered unable to perform plaintiff’s normal activities and duties and has sustained a resultant loss therefrom” See Exhibit A, paragraph 15.

4. On February 9, 2021, in an email exchange with plaintiff’s counsel, plaintiff’s counsel, responding to a written demand for damages, sought damages in the amount of “\$85k” (Eighty Five Thousand Dollars). A copy of said email is attached hereto as Exhibit D. Plaintiff’s email of February 9, 2021 represents plaintiff’s first written demand for damages. Therefore, this Notice of Removal is being filed within 30 days of Plaintiff’s damage for damages.

5. Based upon the foregoing, there can be no doubt that the amount in controversy herein exceeds \$75,000.00, exclusive of interest and costs.

6. Plaintiff is a resident of the State of New York, County of Kings (see Exhibit A hereto; Plaintiff’s Summons as well as Plaintiff’s Verified Complaint at para. 1).

7. In addition, attached hereto as Exhibit E is Target’s Request to Admit served upon plaintiff’s counsel on or about December 22, 2020. Plaintiff never responded to Target’s Request to Admit within the time permitted by C.P.L.R. § 3123(a). Thus, Target’s requests concerning plaintiff being a citizen of the State of New York, both at the time the cause of action arose and presently, are deemed “admitted”. See C.P.L.R. § 3123(a).

8. Target is a corporation, incorporated in the state of Minnesota. Moreover, Target has its principal place of business in Minneapolis, Minnesota. (See Exhibit F hereto).

9. Based upon the foregoing, diversity of citizenship exists. Plaintiff is a citizen of the State of New York. On the other hand, Target is a foreign business corporation, incorporated in and

having its principal place of business in Minnesota. Therefore, this action is between a citizen of the State of New York (Plaintiff) and a corporation of a state other than New York, the Defendant, Target Corporation, on the other hand.


10. Written notice of the filing of this Notice of Removal has been given to all parties in accordance with 28 U.S.C. §1446(d), as evidenced in the annexed Certificate of Service.

11. Promptly after filing this Notice with the Court and the assignment of a civil docket number, a copy of this Notice will be filed with the Supreme Court of the State of New York, County of Kings, in accordance with 28 U.S.C. §1446(d).

WHEREFORE Petitioner, Target Corporation, defendant in the action described herein now pending in the Supreme Court of the State of New York, County of Kings, under Index No. 523224/2020, prays that this action be removed therefrom to this Honorable Court.

Dated: New York, New York  
March 3, 2021

Yours etc.,

  
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MITCHELL B. LEVINE  
FISHMAN MCINTYRE BERKELEY LEVINE  
SAMANSKY P.C.  
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